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(b) Any such suspension may be continued until such time as it shall appear to the Commission that such suspension is designed to evade the provisions of section 12(d) and the rules and regulations thereunder relating to the withdrawal and striking of a security from listing and registration. During the continuance of such suspension the exchange shall notify the Commission promptly of any change in the reasons for the suspension. Upon the restoration to trading of any security suspended under this rule, the exchange shall notify the Commission promptly of the effective date thereof.

(c) Suspension of trading shall not terminate the registration of any security.

(Sec. 12, 48 Stat. 892, as amended; 15 U.S.C. 78l)

[28 FR 1506, Feb. 16, 1963]

§ 240.12d2-2 Removal from listing and registration.

PRELIMINARY NOTES: 1. The filing of the Form 25 (Sec. 249.25 of this chapter) by an issuer relates solely to the withdrawal of a class of securities from listing on a national securities exchange and/or from registration under section 12(b) of the Act (15 U.S.C. 78l(b)), and shall not affect its obligation to be registered under section 12(g) of the Act and/or reporting obligations under section 15(d) of the Act (15 U.S.C. 78o(d)).

2. Implementation. The rules of each national securities exchange must be designed to meet the requirements of this section and must be operative no later than April 24, 2006. Each national securities exchange must submit to the Commission a proposed rule change that complies with section 19(b) of the Act (15 U.S.C. 78s) and Rule 19b-4 (17 CFR 240.19b-4) thereunder, and this section no later than October 24, 2005.

(a) A national securities exchange must file with the Commission an application on Form 25 (17 CFR 249.25) to strike a class of securities from listing on a national securities exchange and/or registration under section 12(b) of the Act within a reasonable time after the national securities exchange is reliably informed that any of the following conditions exist with respect to such a security:

(1) The entire class of the security has been called for redemption, maturity or retirement; appropriate notice thereof has been given; funds sufficient

for the payment of all such securities have been deposited with an agency authorized to make such payments; and such funds have been made available to security holders.

(2) The entire class of the security has been redeemed or paid at maturity or retirement.

(3) The instruments representing the securities comprising the entire class have come to evidence, by operation of law or otherwise, other securities in substitution therefor and represent no other right, except, if such be the fact, the right to receive an immediate cash payment (the right of dissenters to receive the appraised or fair value of their holdings shall not prevent the application of this provision).

(4) All rights pertaining to the entire class of the security have been extinguished; provided, however, that where such an event occurs as a result of an order of a court or other governmental authority, the order shall be final, all applicable appeal periods shall have expired, and no appeals shall be pending.

EFFECTIVE DATE: Such an application shall be deemed to be granted and shall become effective at the opening of business on such date as the exchange shall specify in said application, but not less than 10 days following the date on which said application is filed with the Commission; *Provided, however*, That in the event removal is being effected under paragraph (a)(3) of this section and the exchange has admitted or intends to admit a successor security to trading under the temporary exemption provided for by § 240.12a-5, such date shall not be earlier than the date on which the successor security is removed from its exempt status.

(b)(1) In cases not provided for in paragraph (a) of this section, a national securities exchange may file an application on Form 25 to strike a class of securities from listing and/or withdraw the registration of such securities, in accordance with its rules, if the rules of such exchange, at a minimum, provide for:

(i) Notice to the issuer of the exchange's decision to delist its securities;

(ii) An opportunity for appeal to the national securities exchange's board of directors, or to a committee designated by the board; and

(iii) Public notice of the national securities exchange's final determination

to remove the security from listing and/or registration, by issuing a press release and posting notice on its Web site. Public notice under this paragraph shall be disseminated no fewer than 10 days before the delisting becomes effective pursuant to paragraph (d)(1) of this section, and must remain posted on its Web site until the delisting is effective.

(2) A national securities exchange must promptly deliver a copy of the application on Form 25 to the issuer.

(c)(1) The issuer of a class of securities listed on a national securities exchange and/or registered under section 12(b) of the Act may file an application on Form 25 to notify the Commission of its withdrawal of such securities from listing on such national securities exchange and its intention to withdraw the securities from registration under section 12(b) of the Act.

(2) An issuer filing Form 25 under this paragraph must satisfy the requirements in paragraph (c)(2) of this section and represent on the Form 25 that such requirements have been met:

(i) The issuer must comply with all applicable laws in effect in the state in which it is incorporated and with the national securities exchange's rules governing an issuer's voluntary withdrawal of a class of securities from listing and/or registration.

(ii) No fewer than 10 days before the issuer files an application on Form 25 with the Commission, the issuer must provide written notice to the national securities exchange of its determination to withdraw the class of securities from listing and/or registration on such exchange. Such written notice must set forth a description of the security involved, together with a statement of all material facts relating to the reasons for withdrawal from listing and/or registration.

(iii) Contemporaneous with providing written notice to the exchange of its intent to withdraw a class of securities from listing and/or registration, the issuer must publish notice of such intention, along with its reasons for such withdrawal, via a press release and, if it has a publicly accessible Web site, posting such notice on that Web site. Any notice provided on an issuer's Web site under this paragraph shall remain

available until the delisting on Form 25 has become effective pursuant to paragraph (d)(1) of this section. If the issuer has not arranged for listing and/or registration on another national securities exchange or for quotation of its security in a quotation medium (as defined in § 240.15c2-11), then the press release and posting on the Web site must contain this information.

(3) A national securities exchange, that receives, pursuant to paragraph (c)(2)(ii) of this section, written notice from an issuer that such issuer has determined to withdraw a class of securities from listing and/or registration on such exchange, must provide notice on its Web site of the issuer's intent to delist and/or withdraw from registration its securities by the next business day. Such notice must remain posted on the exchange's Web site until the delisting on Form 25 is effective pursuant to paragraph (d)(1) of this section.

(d)(1) An application on Form 25 to strike a class of securities from listing on a national securities exchange will be effective 10 days after Form 25 is filed with the Commission.

(2) An application on Form 25 to withdraw the registration of a class of securities under section 12(b) of the Act will be effective 90 days, or such shorter period as the Commission may determine, after filing with the Commission.

(3) Notwithstanding paragraphs (d)(1) and (d)(2) of this section, the Commission may, by written notice to the exchange and issuer, postpone the effectiveness of an application to delist and/or to deregister to determine whether the application on Form 25 to strike the security from registration under section 12(b) of the Act has been made in accordance with the rules of the exchange, or what terms should be imposed by the Commission for the protection of investors.

(4) Notwithstanding paragraph (d)(2) of this section, whenever the Commission commences a proceeding against an issuer under section 12 of the Act prior to the withdrawal of the registration of a class of securities, such security will remain registered under section 12(b) of the Act until the final decision of such proceeding or until the Commission otherwise determines to

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suspend the effective date of, or revoke, the registration of a class of securities.

(5) An issuer's duty to file any reports under section 13(a) of the Act (15 U.S.C. 78m(a)) and the rules and regulations thereunder solely because of such security's registration under section 12(b) of the Act will be suspended upon the effective date for the delisting pursuant to paragraph (d)(1) of this section. If, following the effective date of delisting on Form 25, the Commission, an exchange, or an issuer delays the withdrawal of a security's registration under section 12(b) of the Act, an issuer shall, within 60 days of such delay, file any reports that would have been required under section 13(a) of the Act and the rules and regulations thereunder, had the Form 25 not been filed. The issuer also shall timely file any subsequent reports required under section 13(a) of the Act for the duration of the delay.

(6) An issuer whose reporting responsibilities under section 13(a) of the Act are suspended for a class of securities under paragraph (d)(5) of this section is, nevertheless, required to file any reports that an issuer with such a class of securities registered under section 12 of the Act would be required to file under section 13(a) of the Act if such class of securities:

(i) Is registered under section 12(g) of the Act; or

(ii) Would be registered, or would be required to be registered, under section 12(g) of the Act but for the exemption from registration under section 12(g) of the Act provided by section 12(g)(2)(A) of the Act.

(7)(i) An issuer whose reporting responsibilities under section 13(a) of the Act are suspended under paragraph (d)(5) of this section is, nevertheless, required to file any reports that would be required under section 15(d) of the Act but for the fact that the reporting obligations are:

(A) Suspended for a class of securities under paragraph (d)(5) of this section; and

(B) Suspended, terminated, or otherwise absent under section 12(g) of the Act.

(ii) The reporting responsibilities of an issuer under section 15(d) of the Act

shall continue until the issuer is required to file reports under section 13(a) of the Act or the issuer's reporting responsibilities under section 15(d) of the Act are otherwise suspended.

(8) In the event removal is being effected under paragraph (a)(3) of this section and the national securities exchange has admitted or intends to admit a successor security to trading under the temporary exemption provided for by §240.12a-5, the effective date of the Form 25, as set forth in paragraph (d)(1) of this section, shall not be earlier than the date the successor security is removed from its exempt status.

(e) The following are exempt from section 12(d) of the Act and the provisions of this section:

(1) Any standardized option, as defined in §240.9b-1, that is:

(i) Issued by a clearing agency registered under section 17A of the Act (15 U.S.C. 78q-1); and

(ii) Traded on a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)); and

(2) Any security futures product that is:

(i) Traded on a national securities exchange registered under section 6(a) of the Act or on a national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o-3(a)); and

(ii) Cleared by a clearing agency registered as a clearing agency pursuant to section 17A of the Act or is exempt from registration under section 17A(b)(7) of the Act.

[28 FR 1506, Feb. 16, 1963, as amended at 70 FR 42468, July 22, 2005]

UNLISTED TRADING

§ 240.12f-1 Applications for permission to reinstate unlisted trading privileges.

(a) An application to reinstate unlisted trading privileges may be made to the Commission by any national securities exchange for the extension of unlisted trading privileges to any security for which such unlisted trading privileges have been suspended by the Commission, pursuant to section 12(f)(2)(A) of the Act (15 U.S.C.